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అధికారమువలన ప్రచురించబడినది.

నెం. 6(1)

గుంటూరు, 2010వ సంవత్సరము, జూన్ నెల, 17వ తేది, గురువారము

Copy of :-

PROCEEDINGS OF THE COLLECTOR &
DISTRICT MAGISTRATE, GUNTUR

4 Orders of the Hon'ble High Court of Andhra Pradesh, Hyderabad in W P. No. 4868/2009, dated 15-4-2010.

Present : SRI B. RAMANJANEYULU I.A.S.,

* * *

ORDER :

[Rc. No. 1689/06-C4

Dated 24-5-2010]

Sub : Caste Verification-Guntur District - Vemuru Mandal - Chavali Village - Enquiry conducted through DLSC, Tammali Caste (BC) certificate of Sri Pattipati Raja Sekhar - Found false - Cancellation - Orders issued.

Sri Balagani Siva Sankar Rao, S/o Venkateswarlu, Chavali Village of Vemuru Mandal has put an application to the Collector, Guntur requesting to verify the caste of Sri Pattipati Raja Sekhar (Brahmin) who was elected as Sarpanch, Gram Panchayat, Chavali Village of Vemuru Mandal, on the basis of Tammali (BC) caste certificate fraudulently obtained by him and requested to take necessary action.

Ref. : 1. Representation of Sri Balagani Siva Sankara Rao, S/o Venkateswarlu, R/o Chavali Grama Panchayat, Vemuru Mandal.

The matter was referred to the Revenue Divisional Officer, Tenali for enquiry and to send detailed report in the matter.

2. Ir. D. Dis. 1956/06/F, dated 25-10-07 of the RDO, Tenali.

3. Findings of the District Level Scrutiny Committee.

In the ref. 2nd cited, the Revenue Divisional Officer, Tenali has reported that the Tahsildar, Vemuru has verified T. C. possessed by Sri Prattipati Rajasekhara S/o Sanbasiva Rao and his caste is noted as Tammali (BC). The

then MRO, Vemuru issued the B.C. Tammali caste certificate to him basing on the T. C. and the declaration of the individual on 15-7-2006. The individual worked as RMP Doctor in the village prior to his being elected as Sarpanch.

The Tahsildar, Vemuru further enquired the petitioner, B. Sivasankara Rao, Prattipati Rajasekhara Rao whose caste status is questioned, Sri Prattipati Sambasiva Rao, father of Rajasekhara Rao and some villagers. The VRO, Vemuru also submitted his statement in this regard.

Sri B. Sivasankara Rao, the petitioner re-iterated the allegations made by him in his original petition. He stated that Sri Prattipati Rajasekhara Rao and his father belongs to Brahmin (OC) caste and they are enjoying the status of upper caste people. He stated that Sri Prattipati Sambasiva Rao worked as a Government teacher and his caste is recorded as Brahmin in the Service Book. His relatives are working as Sivarchakas and they are treated as Brahmins only. The caste of Prattipati Raja Sekhar is noted as Brahmin in the SSID record of Chavali Village. BC status was not entered against his name at Sl. No. 3373 of the Panchayat voters list which implies that he belongs to upper caste. He therefore requested to cancel the B. C. certificate issued to Prattipati Raja Sekhar. He also pleaded that the Government have issued instructions that only shudra caste persons residing in 5 districts of Telangana areas can be regarded as Tammali (BC) caste people.

Sri Prattipati Sambasiva Rao, father of Rajasekhara stated that he worked as Government Teacher and it is a fact that his caste is recorded as Brahmin in his Service Book, and he retired in the year 2003. He stated that Tammali caste people who were assisting Brahmins in Sivarchana till the year 1977 were also regarded as Brahmins. But his family belongs to Tammali Brahmin caste. His son Rajasekhara is a private Medical Practitioner in the village. He stated that all his relatives residing in Tsundur, Vemuru Mandal, belongs to Tammali caste only and the caste of their children is now registered as Tammali B. C. only.

Prattipati Rajasekhara Rao stated that his caste is recorded as Tammali B. C. in his school/ College records and all his relatives also belong to Tammali caste. He produced Xerox copies of Tammali caste certificates issued to the following persons. He stated that he is not doing sivarchana and he is a private Medical Practitioner (RMP).

1 Chavali Madhavilatha	Tsundur.
2 Chavali Ravindranadh	Tsundur
3 Chavali Jayanth	Tsundur
4 Mamillapalli Umamaheswara Rao	Tsundur

Sri Chavali Umamaheswara Rao, Chavali Valeswara Rao said to be relatives of Prattipati Rajasekhara stated that they belong to Tammali caste but they are doing Sivarchana in the temple and they are treated as Brahmins only in the Village.

The VRO stated that Sri Prattipati Raja Sekhar Rao is working as RMP Doctor and he married upper caste woman and residing in upper caste locality. His father Sambasiva Rao reportedly migrated to Chavali Village about 45 years ago from Medikondur Mandal. The VRO stated that though Prattipati Rajasekhara Rao is not a Sivarchaka by profession, his father and himself are regarded as Brahmins only in the Village and they cannot be treated as BCs.

The Tahsildar stated that Prattipati Raja Sekhara Rao married an O.C. woman and working as a private Doctor and residing in upper caste locality and treated as belonging to upper caste person only.

The Revenue Divisional Officer, Tenali has reported that he personally enquired the petitioner and Sri Prattipati Rajasekhara Rao, S/o Sambasiva Rao. According to the petitioner, Prattipati Rajasekhara Rao belongs to Brahmin caste and shudras who are regarded as Tammali (BC) do not exist in Guntur District.

According to Sri Prattipati Rajasekhara Rao though his ancestors and relatives are Sivarchakas, they are backward class people only and they can not be treated as upper caste

Brahmins. He presented some village elders on his behalf in support of his claim. They stated that though Tammali Brahmins are doing Sivarchana, they are regarded as backward caste people only. However they admitted that they respect the family of P. Rajasekhara Rao on par with upper caste families.

On the other hand, Sri B. Sivasankara Rao presented some elder people of Chavali Village on his behalf. They stated that Prattipati Sanba Sivarao and his son Rajasekhara Rao and their relatives belong to Brahmin caste only and all of them are regarded as belonging to forward caste people in the village. The relatives of Prattipati Rajasekhara Rao are working as Sivarchakas from time immemorial. They pleaded that both Sivarchakas or Vishnurchakas in Guntur District are forward caste people only. They stated that shudras who are regarded as belonging to Tammali caste may be residing in some Telangana District. Therefore they pleaded that Prattipati Rajasekhara Rao belongs to upper caste only.

In this connection, it is pertinent to note that Tammali BC caste is included at Sl. No. 29 under group 'D' of socially and educationally backward classes in A. P., communicated as per G. O. No. 1793 Education Department, dated 23-9-1970. The Government have later issued clarification that Shudras residing in Nalgonda, Mahabubnagar, Karimnagar, Nizambad and Adilabad District alone can be treated as belonging to Tammali caste which is noted against Sl. No. 29 vide G. O. No. 20, B.C. W(A1), dated 21-7-1997.

It is categorically stated in G. O. No. 20 B.C. W. dated 21-7-1997 that Tammali caste noted at Sl. No. 29 of the B. C. list refers to Shudra caste confined to the above 5 Districts only and the Shivarchakas (Adisaivas) and Vishnuvarchakas are of Brahmin caste.

The Revenue Divisional Officer, Tenali has submitted that the Village elders who supported the claim of Rajasekhara Rao that he belongs to Tammali Caste however admitted that Tammali Brahmins who are his relatives are

working as Sivarchakas and they have been regarded as upper caste people only and they are also known as Tammali Brahmins. However they pleaded that Tammali Brahmins belong to backward caste. Sri Bolagani Sivasankara Rao and the village elders who spoke on his behalf stated that the family of Prattipati Sambasiva Rao is regarded as belonging to Brahmin caste only and the family is respected as such on par with other Brahmins. The Revenue Divisional Officer, Tenali submitted that the family of Sri Prattipati Rajasekhara Rao S/o Sambasiva Rao is enjoying the upper caste status in Chavali Village. As per the clarification given the Government in G. O. No. 20 B.C. W (A1), dated 21-7-1997, there are no Shudra caste people who are regarded as Tammali in Guntur District. The Revenue Divisional Officer, Tenali has opined that Sri Prattipati Rajasekhara Rao can not be treated as belonging to backward class. However the Revenue Divisional Officer, Tenali has requested to place the matter before the District Level Scrutiny Committee for further enquiry and suitable action.

The Collector instructed to place the matter before DLSC.

The DLSC meeting was held on 8-2-2008

Sri Prattipati Rajasekhara Rao attended the DLSC meeting on 8-2-2008 and statement was recorded from him.

He was elected as village Sarpanch in August 2006. His father worked as Teacher in Elementary school. His mother is a house wife. His family members are

1. Prattipati Rajasekhar, age 40 years, he studied BA and married. He had two children one son, named Pavan and one daughter named Lakshmi Harika 8 years. He worked as RMP Doctor before conduction of elections.
2. Prattipati Sangameswara Rao, 36 years and working as Conductor in APSRTC, Chilakaluripet.

- 3 Chavali Madhavi Latha, W/o Chavali Ravindranadh, 32 years, Tsundur Village, Chavali Ravindranadh working as Archakulu in Tsundur Sivalayam, Ravindranadh is own maternal uncle of Sri P. Rajasekhar, he belongs to Tammali.

His father Sambasiva Rao joined as teacher in 1976. All his education career was continued as (OC) his grand father also worked as Archakulu in Tsundur Sivalayam Temple, P. Rajasekhar performed intercaste marriage with the daughter of Akula Venkateswarlu belonging to Kapu (OC). During his whole studies his caste was recorded as Tammali (BC-D). His brother's and sisters caste was also recorded as Tammali (BC-D) in school records. His brother's father-in-law was working as RMP Doctor Munankalu Village of Narasaraopet Mandal. He gave the particulars of his relatives.

- 1 Chavali Umamaheswara Rao, 37 years belongs to Tammali.
- 2 P. R. L. Sama, Vallaba Rao, Ponnur Mandal, cousin and working as Librarian at Gudivindavaripalem.
- 3 Mamillapalli Uma Maheswara Rao, Tsundur, 40 years, cousin, working as RMP Doctor and Sivalayam Archakulu.
- 4 Mamillapalli Padmanaba Sarma, Tsundur, 37 years, cousin Sivalayam Archakulu.

His relatives are residing at Kunchellapadu Village of Vemuru Mandal, Balijapalli, Vemuru, Ponnur, Bapatla, Narasaraopet, Sattenapalli, Karampudi, Gudavalli Village of Krishna District, Chirala. All are working as Siva Archakulu and belong to Tammali (BC-D).

His mother side relatives are Kolakaluri Ramasesha Sarma, S/o Paccha Rao, Kolakaluri Village of Tenali Mandal working as Sivarchakulu and also elected as MPTC member, Krishna Murthy is working as Doctor and elected as President. They belong to Tammali (BC-D).

He stated that he has filed a Writ Petition No. 26032/2007 in Hon'ble High Court and the High Court has issued Interim suspension in W P No. 33949/2007, dated 6-12-2007, regarding his election as Sarpanch of Chavali Village.

He was elected as Sarpanch of Chavali Village in August 2006, as BC category some persons made allegations against him without knowledge. In this regard the elders of village people stated that he belongs to Tammali or Tammali Brahmin, the persons who made allegations against him are stating that there are no Tammali caste people in Andhra region, but it is not correct as according to "Andhra Desha Grama Charitra". Modukur Village, Tsundur Mandal history page No. 41 the village population has been given castewise. In the Gram Kaiphi at which was made by the British, in page No. 42, it was noted 3 male, 2 female total 5 and at page No. 40 it was noted as their relatives "Mamillapalli, were devotees, in the Sivalayam they called as "Pujanulu".

The Govt., issued a G. O. Ms. No. 1795, Education, dated 25-9-1970 and included Tammali caste at Sl. No. 29. He reiterated that he belongs to Tammali Caste and requested more time to submit further particulars.

Sri Prattipati Rajasekhar submitted the following certificates for perusal

- 1 Form of Transfer Certificate for Intermediate Course
- 2 Transfer Certificate of Pamulapati Butch Naidu College, Nidubrolu
- 3 Caste Certificate of Kolakaluri Ramasesha Sarma

He also submitted a copy of the High Court order, dated 9-8-2002 in W.P. M.P. No. 9142/2000 in W.P. No. 6932/2000 issuing status quo orders as on the date.

Bolagani Siva Sankar, the petitioner in the case has put in a representation dated 2-1-2009 that the Hon'ble Mr. Justice V.V.S. Rao in the High Court of the Judicature, Andhra Pradesh, Hyderabad (Special Original

Jurisdiction) has dismissed the W P. Nos. 12474, 25624 and 25756 of 1998 challenging the G.O. Ms. No. 20 of 21-7-1997 confining the benefits only to 5 districts namely Adilabad, Karimnagar, Mahabubnagar, Nalgonda and Nizamabad of Telangana Region. He further stated that Sri P. Rajasekhara in his representation to the beloved Officer stated that W P. No. 6932 of 2000 was pending in the High Court. But the W rit Petition No. 6932 of 2000 was filed by the petitioners (1) Telangana Tammali Sangam area have filed this petition requesting the modification of G. O. Ms. No. 1793 Education, dated 23-9-1997 and requested to continue the Petitioner's Tammali caste in ENTIRE TELANGANA AREA but they have not requested other than Telangana areas in Andhra Pradesh. The W P. is not at all concerned to the Tammali caste other than those five Districts of Andhra Pradesh.

The Hon'ble Junior Civil Judge, Tenali, has also given his judgment stating that the Election of Sri P. Rajasekhara Rao as Surpanch of Chavali, which was reserved for Backward Classes is illegal as he has obtained false BC certificate and contested in the elections. Hence Sri Bolagani Siva Sankar requested that taking into consideration of the dismissed W rit Petition Nos. 12474, 25624 and 25756 of 1998, he requested to cancel the Tammali Caste Certificate issued to Sri P. Rajasekhara Rao.

He further submitted that the following W P.s. have been filed before the Hon'ble High Court, A.P., Hyderabad as stated below ;

1 W P. No. 12474/1998 :

Petitioner - Sri Sambasiva Rao, S/o Ramamurthy, Gutupalli, Prakasam District

Respondents - 1 The Registrar, NTR University of Health Sciences Vijayawada
2 The Mandal Revenue Officer, Ballikurava (M) Prakasam District.
3 The Government of A.P., rep. by its Secretary, Social Welfare Department, A.P., Govt. of A.P., Hyderabad.

2 W .P. No. 25624/1998 :

Petitioner - Sri Ravuri Ravi, S/o Gopala Krishna Murthy, R/o Bolapally Village, Martur Mandal, Prakasam District.

Respondents - 1 The Govt. of A.P, Social Welfare Department, rep. by its Secretary, Govt. of A.P, Hyderabad.
2 The Mandal Revenue Officer, Martur Mandal, Prakasam District.

3 W .P. No. 25756/1998 :

Petitioner - Sri Ch. Koteswara Rao, S/o Sambasiva Rao, R/o Alavalapadu Village, J. Panguluru Mandal, Prakasam District.

Respondents - 1 The Govt. of A.P, Social Welfare Department, rep. by its Secretary, Govt. of A.P, Hyderabad.
2 The Mandal Revenue Officer, J. Panguluru Mandal, Prakasam District.
3 Mandal Education Officer.

In the above W .Ps. the petitioners have prayed the Court to issue a writ or order more especially one in the nature of W rit of Certiorari to call for records pertaining to G. O. Ms. No. 20, dated 21-7-1997 issued by the Government of A.P., Backward Classes Welfare (A-1) Department by the first respondent is illegal and violative of G. O. Ms. No. 1793/Education, dated 23-9-1970 and consequentially declare that the modification of G. O. Ms. No. 1793/Edu., dated 23-9-1970 excluding the petitioner from claiming the reservation is within the purview of the constitution and the respondents shall issue them permanent caste certificate under Group - D reservation category.

In this connection, it is submitted that in the above W .P. Nos. 12474/1998, 25624/1998 and 25756/1998, the Hon'ble High Court made the following Common Order on 22-10-2008.

"It is well settled that when the discrimination is alleged seeking invalidation of an executive action and such discrimination is based on a complaint of under-inclusion the Court of Judicial review cannot be interfered because it is the executive discretion that was exercised while not including a class of persons for the purpose of concerning benefits. Of course it is altogether different when the discrimination is based on over-inclusion in which even though the Court of Judicial review is competent to quash such over-inclusion, it cannot rewrite the executive polity. In G.O. Ms. No. 1793, dated 23-9-1970 Tammali in entire Andhra Pradesh were recognized as BC-D but subsequently based on recommendation of commission's report dated 25-3-1977 the Government issued G. O. Ms. No. 20, dated 21-7-1997 confining said benefit only to five Districts only, i.e., Adilabad, Karimnagar, Mahabubnagar, Nalgonda and Nizamabad of Telangana Region. Therefore, no interference is called for. The matter can also be best examined from yet another angle. As held by the Supreme Court in Action Committee Vs. Union of India, when a particular community is recognized in scheduled caste (SC) or Scheduled Tribe (ST) with reference to one state, the same cannot be treated as SC or ST in respect of another State.

The same principle applies even with regard to backward classes.

A particular community may be identified as backward class with reference to a region or a group of districts having regard to the geographical habitat of such community, but the same community of people living in other districts may not

get the benefit of such reservation. This is constitutionally valid and no exception can be taken to this.

These writ petitions, for the above reasons, are devoid of merit and the same are accordingly dismissed."

The above writ petitions were filed by the petitioner's of coastal districts and the Hon'ble High Court dismissed the same on the reason that they are devoid of merit stating that the G. O.Ms. No. 20 is constitutionally valid and no exception can be taken to that.

The petitioner is constantly requesting for adjournments on the plea that the Hon'ble High Court issued status Quo order in W .P. No. 9142 of 2000 of W .P. No. 6932 of 2000 in which the Telangana Tammali Sangham and Sharanappa, petitioners prayed the Hon'ble High Court to direct the respondents i.e., Principal Secretary to Govt. A.P., Backward Class Welfare Department, Secretariat, A.P., Hyderabad and Chairman, A.P. Commissioner for Backward Classes, Hyderabad to continue the petitioner's Caste (Tammali) in Sl.No. 29 B.C. Group D for reservations, suspending the G.O.Ms.No. 20, dated 21-7-1997 pending W P.No. 6932 of 2000. On the file of Hon'ble High Court, in which the Government issued status quo Orders on 9-8-2001. As on that date, the G.O. was already suspended and there is no question of issuing of Tammali Caste Certificate to the individual. Moreover, the W P. was filed by the Telangana Tammali Sangham praying for their benefit only.

As the other W P.s. No.12474/98, 25624/98 filed by the petitioners of coastal districts were dismissed on 22-10-2008 in a Common Order, the request of the individual that a Stay Order is in vogue and Tammali Caste Certificate issued to him should not be cancelled, could not be taken into consideration.

Here, the Petitioner's contention that he belongs to Tammali caste and not a Brahmin could not be taken into consideration to uphold the BC Tammali caste certificate issued to him as the G.O.Ms.No.20 was issued on 21-7-1997 itself basing on the reports dts. 26-3-97 and 27-5-97 of A.P. Commission for Backward Classes holding that Para 4 of the G.O. says that Sivarchakas (Adi Saiva) and Vighanasa Archakas (Vishnu archakas) are of Brahmin caste and they do not fall within the purview of "Tammali" recommended for inclusion by the Anantaraman Commission and accepted by the Government in their order dated 23-9-1970 at Sl.No. 29 of Group-D of the existing list of Backward Classes was a 'Sudra caste' confined to the five districts of Nalgonda, Mahabubnagar, Karimnagar, Nizamabad and Adilabad of Telangana region and not other parts of Andhra Pradesh and recommended to Government to issue appropriate modifications to the aforesaid order.

Para 5 of the G.O.says that the Government after careful examination of the report of the Andhra Pradesh Commission for Backward Classes, have decided to agree with the opinion of the Andhra Pradesh Commission for Backward Classes, holding that Sivarchaka and Vighanasa (Vishnu archakas) of Brahmin caste are not included in Tammali caste and that the caste "Tammili" included at Si.No.29 of Group-D in the G.O.Ms.No. 1793, Education Department, dated 23-9-1970, is a Sudra Caste confined to the five districts of Nalgonda, Mahabubnagar, Karimnagar, Nizamabad and Adilabad of Telangana region and not to other parts of Andhra Pradesh.

Para 6 of the G.O.says that the Government, accordingly issue the modification to the G.O.Ms.No. 1793, Education Department, dated 23-9-1970, as under Sl. No. 29 of Group-D "Tammili" confined to the five districts of Nalgonda, Mahabubnagar, Karimnagar, Nizamabad and Adilabad of Telangana region and not to other parts of Andhra Pradesh.

It is clearly evident that caste "Tammili" included at Sl. No. 29 of Group-D in the G.O.Ms.No. 1793, Education Department, dated

23-9-1970, is a Sudra Caste confined to the five districts of 1,2,3,4,5 of Telangana region and not to other parts of Andhra Pradesh, the Tammali (BC) Caste claim of Sri P. Rajasekhara cannot be taken into consideration.

In view of the above points and after examining the entire record placed before the District Level Scrutiny committee, it is recommended to cancel the Tammali Caste Certificate issued to Sri P. Rajasekhara by the Tahsildar, Vemur, dated 15-7-2006 for the purpose of contesting in elections.

The DLSC has given findings relating to the caste verification of Sri Prathipati Raja Sekhara regarding the 'Tammali' caste certificate issued to him by the Tahsildar, Vemur to contest in the panchayat elections under BC category and he was elected as Sarpanch. The DLSC opined that the Tammali caste certificate issued to him in the year 2006 is liable to be cancelled as the Tammali caste other than in five districts of Telangana region does not come under BC category as per G.O.Ms.No. 20, dated 21-7-1997 amending the G.O.Ms.No. 1793, dated 23-9-1970, and the Hon'ble High Court dismissed the writ petitions filed by the Tammali caste people of other areas.

Agreeing with the findings of the DLSC, a final show cause notice was issued to Sri P. Raja Sekhara as to why his caste certificate should not be cancelled. But he did not give explanation to the show cause notice. Instead, he filed a petition in the Hon'ble High Court, Andhra Pradesh, Hyderabad. The Hon'ble High Court of A.P., Hyd., in their order dated 15-4-2010 in W.P. No. 4868/2009 dismissed the W.P. for non-prosecution.

The Principal Secretary to Government Backward Classes Welfare (C2) Department, in Memo. No. 2865/C2/2009-1, dated 6-8-2009 clarified that the action taken by the District administration in having cancelled Tammali caste certificate issued to Sri Prathipati Raja Sekhara Rao by the Mandal Revenue Officer on 15-7-2006 is appropriate.

In view of the above, I, B.Ramanjaneyulu I.A.S., Collector & District Magistrate, Guntur in exercise of the powers conferred under rule 9(9) of the A.P. (SC. ST & BC' s) regulation of issue of community certificate Rules 1997 read with section 5 (1) of the Act, 1993 hereby hold Sri Prathipati Raja Sekhar is guilty of obtaining Tamili (BC) caste certificate from the Mandal Revenue Officer, Vemuru on 15-7-2006 fraudulently and the same is hereby cancelled.

B . RAMANJANEYULU ,
Collector & District Magistrate,
Guntur .

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